IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SIR JUSTICE M.NARAYANA REDDY

WRIT PETITION No. 20228 of 2004

Between:

The Regional Manager, APSRTC., Nellore

..... PETITIONER

AND

1. Shaik Abdul Sattar, S/o Peda Khader Saheb,
R/o jagannadharaopet BSR Centre Atmakur.
2. The District Consumer Disputes Redressal Forum, Nellore.
3. A.P. State Consumer Disputes Redressal Commission, rep. by its Chairman, Hyderabad.
(R3 is impleaded as per court order dt. 17-11-2004.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction, especially in the nature of a Writ of Certiorari, calling for the records relating to the impugned order dated 13-05-2004 made in CD. NO. 6/2004 on the file of District Consumer Disputes Redressal Forum, Nellore directing to refund the EMD amount of Rs. 5, 000/- to the 1st Respondent and quash the same as illegal,without jurisdiction and invalid.

Counsel for the Petitioner: Mr. R.MANMADHA REDDY

Counsel for Respondent No.1: None appeared.

Counsel for the Respondent No.2: GP FOR CIVIL SUPPLIES

Counsel for Respondent No.3: None appeared.

The Court made the following :

ORAL ORDER:

(per Honourable Sri Devinder Gupta, the Chief Justice)

This Writ Petition has been preferred questioning the order passed by the District Consumer Disputes Redressal Forum, Nellore in C.D.No. 6 of 2004 allowing the complaint filed by the respondent under Section 12 of the Consumer Protection Act, 1986, thereby, directing the petitioner herein to refund EMD amount within two months from the date of the receipt of the said order.

The writ petitioner while opposing the complaint specifically raised a question that complaint is not maintainable and is liable to be dismissed in limini, since it is not covered by the definition of 'consumer dispute' as defined in Section 2(e) of the said Act.

The District Consumer Disputes Redressal Forum, Nellore, though noticed the objection taken by the writ petitioner, but, failed to decide the same, and, proceeded to dispose of the complaint on merits.

Once a dispute is raised before any Forum, Tribunal or authority as regards its jurisdiction to entertain a complaint, it is, but, necessary that the said Forum/Tribunal must decide the question of jurisdiction before taking up the decision on the complaint. Not deciding such a question would vitiate the entire decision. Though in normal course, petitioner ought to have preferred appeal before the State Consumer Disputes Redressal Commission, but we entertain the Writ Petition since, prima facie, complaint was not entertainable before the District Consumer Disputes Redressal Forum. Since despite notice nobody has appeared on behalf of third respondent, we proceed to allow the Writ Petition and set aside the order passed by the District Consumer Redressal Forum with direction to take decision afresh in accordance with law. But, before doing so, the District Consumer Redressal Forum, Nellore, will answer the objection raised by the writ petitioner about the

maintainability of the complaint. Ordered accordingly. No costs.

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DEVINDER GUPTA, C.J.

17.1.2005.

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M.NARAYANA REDDY, J.

VR

To

1.The District Consumer Disputes Redressal Forum, Nellore.
2. The Chairman, A.P. State Consumer Disputes Redressal Commission, Hyderabad.

3. Two CCs to Government Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.